

## REMARKS

Claims 2, 4-17, 19-32, 42, 44, 46-54 and 56-65 are pending in this application. Claims 2, 4-17, 19-32, 42, 44 and 46-54 and 56-65 have been rejected in the Office Action dated June 30, 2008. Applicant has amended claims 5, 15, 16, 17, 19, 20, 22, 29, 30, 32, 56, and 57 and canceled claims 21, 31, 58, 60, and 62 without prejudice. Support for these amendments can be found at, e.g., ¶ [22], [33], [34], [40] and Figs. 1, 6, and 14 and throughout the specification and claims as originally filed. Reconsideration and allowance in view of the following amendments and remarks are requested.

The response follows an October 20, 2008 telephone interview between Applicant's attorney, Steven Giovannetti, and Examiner Jes Pascua, wherein the claimed invention was discussed in view of the cited art. Proposed amendments submitted with the Interview Request form were discussed. Additional amendments were proposed and discussed during the interview for overcoming the cited art of record by further describing the structure of the multi-handled bag in the claims to distinguish said claims over the cited art. The courtesies extended Applicant's attorney during the Examiner interview are sincerely appreciated. The remarks and amendments presented in this response make of record and further address the issues discussed during the interview.

### *Drawings*

The Drawings were objected to because they "must show every feature of the invention specified in the claims...the first handle formed by one of a cut and a series of

perforations wherein the first handle includes a rigid handle (claim 22) must be shown or the feature(s) canceled from the claims." Applicant has amended claim 22 to recite "the sealed, multi-handled loose-materials bag of claim 29, wherein the second handle includes a rigid handle" thereby overcoming this drawing rejection as all features are shown in the drawings.

***Specification***

Applicant has canceled claim 31 thereby overcoming the rejection of said claim as being an improper dependent claim.

***Claim Rejections – 35 USC §112***

Claim 22 stands rejected under 35 USC 112, first paragraph, as failing to comply with the written description requirement. The Office Action reads, "the specification fails to provide an adequate written description of the first handle being formed by one of a cut and a series of perforations wherein the first handle includes a rigid handle." Applicant has amended claim 22 to recite "the sealed, multi-handled loose-materials bag of claim 29, wherein the second handle includes a rigid handle" and submit that the above rejection has been overcome.

Claims 19-23 and 56 stand rejected under 35 USC 112, second paragraph, as being indefinite as follows:

The Office Action reads, "in claim 19, it is unclear if a sheet having one or more layers refers to one of the first and second plastic sheets of claim 29 or a sheet in addition to the first and second plastic sheets." In response, Applicant has amended claim 19 to recite "the sealed, multi-handled loose-materials bag of claim 29, wherein the first handle is formed by one of a cut and a series of perforations formed through a

first and second plastic sheet, wherein the plastic sheets each have one or more layers, to form a grip," thus overcoming this rejection.

The Office Action reads "in claim 20, it is unclear which of the first and second plastic sheets the patch is attached to." In response, Applicant has amended claim 20 to recite "wherein the first handle further comprises a patch attached to a first or second plastic sheet," thus overcoming this rejection.

The Office Action reads "in claim 21, it is unclear which of the first and second plastic sheets is folded over and attached to itself." In response, Applicant has cancelled claim 21, thus overcoming this rejection.

The Office Action reads "in claim 22, the relationship and association between the cut or series of perforations forming the first handle and the included rigid handle has not been defined." In response, Applicant has amended claim 22 to recite "the sealed, multi-handled loose-materials bag of claim 29, wherein the second handle includes a rigid handle," thus overcoming this rejection.

The Office Action reads "claim 56 is indefinite because it depends from cancelled claim 55." In response, Applicant has amended claim 56 to depend from claim 15, thus overcoming this rejection.

The Office Action reads "claim 23 is rejected since it depends from a claim rejected under 35 USC 112, second paragraph." In response, Applicant has amended claim 22 as stated above, thus overcoming this rejection.

Thus, in view of the above, Applicant respectfully requests that the rejections be reconsidered and withdrawn.

***Claim Rejections – 35 USC § 103***

1. Claims 2, 5, 8-15, 19, 21, 24-29, 31, 32, 42, 48-54, 59, 61, 63, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,338, 117 to Kucksdorf et al. and U.S. Patent No. 3,249,285 to Dollheimer et al.

The Office Action maintains the rejections set forth in the January 14, 2008 Office Action. Additionally, the Office Action states that Kucksdorf meets the limitation of a "substantially tubular shaped body" to the same degree Applicant sets for the metes and bounds of the term 'tubular.'" Applicant respectfully disagrees. The claims as amended, however, recite a substantially tubular shaped body or tube "with no more than two opposing panels," "sheets" or "portions" and such claims would not be obvious over Kucksdorf in view of Dollheimer. Kucksdorf is directed to "bags of the leakproof type having a rectangular end construction." Col. 1, ll. 8-9. As shown in Figs. 22 and 23, the bag of Kucksdorf has a rectangular, cube or box-like shape with 6 sides. Dollheimer, meanwhile, teaches a bag having a reinforced hand-holding portion. Col. 2, ll. 13-25; Fig. 2.

It would not have been obvious to modify the six sided rectangular shaped Kucksdorf bag with the bag design and hand holding portion of Dollheimer because such a modification would have destroyed the stated functionality of Kucksdorf. The purpose of the Kucksdorf bag design is to create a bag that overcomes the problems associated with "bags which have a pinched top type of closure whereby there is a significant amount of unused dead space" which "are often stored in a non-upright position whereby they get crushed and lose their visual appeal to customers, particularly

with respect to the display of the graphics thereon." Col. 1, ll. 30-41. Kucksdorf has attempted to overcome this problem by designing a bag that 1) "will be constructed so as to provide rigidity to the package so that it maintains its shape on the shelf;" and 2) "the packaged bag will be formed in the shape of a rectangular container having six sides. To this end both the top and the bottom end of the bag are formed to provide a flat face extending across the top and bottom ends between four rectangularly arranged sides. By this arrangement, the graphics can be presented on all six sides of the bag so that, when the bag is displayed in the store shelf, it can be arranged to provide a display on any of the six sides and thereby offer consumer appeal for purposes of selling and informing the consumer." Col. 1, ll. 49-51; Col. 1, l. 65 to Col. 2, l. 6.

A person of skill in the art would have no reason to modify the six sided, rectangular two handled bag of Kucksdorf with the reinforced hand-holding portion of Dollheimer to form a substantially tubular shaped two paneled or two sided bag according to the claimed invention. Doing so would have eliminated the "rigidity to the package so that it maintains its shape on the shelf." Also, such a modified bag would no longer "be formed in the shape of a rectangular container having six sides...to provide a flat face extending across the top and bottom ends between four rectangularly arranged sides" such that "the graphics can be presented on all six sides of the bag so that, when the bag is displayed in the store shelf, it can be arranged to provide a display on any of the six sides and thereby offer consumer appeal for purposes of selling and informing the consumer." Thus, this combination of art would not have been obvious because it would have destroyed the stated functionality of Kucksdorf.

Additionally, Dollheimer teaches reinforcing the hand-holding portion of the bag with added thickness to bear the load during lifting (col. 2, ll. 24-26, 49-50). It would be no more than 20/20 hindsight reasoning to state it would have been obvious to create the claimed invention and attempt to reduce the pressure applied to the user's hands by adding a pair of handles at opposite ends of the Dollheimer bag along with the other missing elements, where Dollheimer teaches increasing the strength of the hand-holding portion for heavier contents by increasing its thickness to "bear the load during lifting of the bag," and carrying the bag upright by placing gripping portions on the same side of the bag (Fig. 7). Thus, Applicant submits that the claims would not have been obvious over the cited art and respectfully requests that this rejection be reconsidered and withdrawn.

Applicant also submits that contrary to the statement made in the Office Action at page 10, ¶ 12, that "Figs. 22 and 23 of Kucksdorf clearly show a multi-handled bag comprising a body without intucked sides (12', 14')," the bag shown in Figs. 22 and 23 does in fact have intucked sides 11' and 13'. Kucksdorf reads: "opposed intucked sides 11 and 13 and a pair of opposed flat sides, 12 and 14," (Col. 3, ll. 38-40) and "the packaged bag 21 shown in Figs. 22 and 23 is similar to the bag 10 wherefore corresponding parts have been given the same reference numerals with primes added" (Col. 7, ll. 19-22). Therefore, because Kucksdorf teaches intucked sides 11' and 13', it can't be "without intucked sides."

2. Claims 4, 16, 17, 20 30, 44, 55-58, 60, 62 and 64 are rejected under 35 U.S.C 103(a) as being unpatentable over Kucksdorf et al. and Dollheimer et al. as applied to claim 5 above, and further in view of U.S. Patent No. 5,593,229 to Warr.

The Office Action maintains the rejections set forth in the January 14, 2008 Office Action. In response, Applicant submits that for at least the reasons discussed above, the rejected claims would not have been obvious over Kucksdorf et al. and Dollheimer, and further in view of Warr, as Warr does not correct the deficiencies of the above references. Thus, Applicant submits that the claims would not have been obvious over the cited art and respectfully request that this rejection be reconsidered and withdrawn.

3. Claims 2, 5-8, 10, 13-15, 19, 21-23, 25, 27-29, 31, 42, 46-48, 50, 53, 54, 59, 61 and 63 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,782,562 to Anspacher and U.S. Patent No. 3,249,285 to Dollheimer et al.

The Office Action maintains the rejections set forth in the January 14, 2008 Office Action. Additionally, the Office Action states that "Anspacher discloses the container being 'heat sealed on all four sides,' which heat seals are considered to be non-resealable." Applicant respectfully disagrees. The claims as amended are directed to a sealed, multi-handled bag "wherein the seams are formed with heat seal bonds or permanent adhesive bonds extending substantially along the entire body end such that the body is non-resealable" or "wherein the seals are formed with heat seal bonds or permanent adhesive bonds extending substantially along the entire body (or tube) end such that the body is non-resealable" and/or having "a first tear seam formed at the first end." Anspacher does not teach these limitations. Anspacher is directed to "a

resealable container." (col. 1, l. 10). The embodiment of Fig. 6, pointed out in the Office Action, includes a "container 110 preferably heat sealed on all four sides with one upper corner 145 left unsealed to provide a mouth." Col. 7, ll. 10-11. "Closure strips 142 and 144 are provided at the unsealed corner 145 of the rectangular body to seal the bag when the material is not being dispensed." Col. 7, ll. 22-24. The Anspacher bag is meant to be resealable (closed and reopened as many times as needed (see, e.g., Col. 6, ll. 65-67)), and it would not have been obvious to modify such a bag with the folded reinforced hand-holding portion of Dollheimer, which portion is folded over and sealed to the side of the bag with a heat seal. (Dollheimer, col. 2, ll. 17-31). Such a modification would have destroyed the resealable or reclosable functionality of the Anspacher bag. It also would not have been obvious to modify such a bag with a tear seam as such a modification would have destroyed the reclosable functionality of the closable strips of the Anspacher bag.

Similarly, one of skill in the art would not have modified the Dollheimer bag with a resealable set of closure strips which would have eliminated the folded reinforced sealed hand-holding portion at the bag end and its stated functionality of bearing the load during lifting. Additionally, Dollheimer contemplates a bag having gripping portions on the same side of the bag as the bag is meant to be carried upright. See Fig. 7, col. 3, ll. 33-37. Thus, Applicant submits that the claims would not have been obvious over the cited art and respectfully request that this rejection be reconsidered and withdrawn.

4. Claims 2, 4-15, 19-29, 31, 42, 44, 46-54, 59, 61, 63 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 3,383,017 to Krings and

Dollheimer et al. The Office Action reads, "Krings discloses the claimed invention, especially the handles including a patch of rigid plastic material (column 2, lines 34-45). However, Krings shows the handles formed through a single stack of panels instead of a double stack of panels. Dollheimer et al. shows that a handle formed through a double stack of panels is an equivalent structure known in the art. Therefore, because these two handle means were art recognized equivalents at the time the invention was made, one of ordinary skill in the art would have found it obvious to substitute the Krings handles formed through a single stack of panels for handles formed through a double stack of panels." Applicant respectfully disagrees.

The present claims as amended recite a multi-handled bag comprising... "each panel (or sheet) having a thickness of about 3 to 12 mils" and/or "a first tear seam formed at the first end" of the bag. Neither of these limitations are taught by Krings or Dollheimer. In fact, the dependent claims directed to a first or second tear seam were not made part of this rejection. Additionally, such dimensions would not have been an obvious design choice in view of the teachings of Krings and Dollheimer as Krings is directed to "aerial drop containers for fuel adapted to be dropped from airplanes or the like." Col. 1, ll. 9-11. "Containers which can be used for such a drop (without parachute) have to exhibit, in addition to a sufficient resistance against the filling media, a high mechanical strength and resistance with respect to the high stresses during impact." Col. 1, 28-31. To withstand the impact from such drops, it is necessary "to manufacture the containers of a material having high tensile strength and high elasticity" (Col. 1, ll. 57-59) and "preferably with a wall thickness of 0.5-2 mm" (Col. 1, ll. 70-72). This is much thicker than the claimed panels having a thickness of about 3 to 12 mils.

Indeed, even the smallest thickness disclosed in Krings, 0.5 mm, is about 19 mils, which is 7 mils thicker than the high end of the claimed range at 12 mils. It would not have been obvious to modify the container of Krings to include thinner walls of about 3 to 12 mils, where the much thicker dimensions of the Krings container impart higher mechanical strengths and are a necessary component for the container to achieve its aerial drop functionality.

Also, it would not have been obvious to modify the container of Krings with the reinforced hand holding portion of Dollheimer, as the thick walls of Krings would not be conducive for folding to create a double stacked handle. The container of Krings is also made to include a "rigid plastic pipe 7" which is readily inserted between the walls in an aperture at the end of the container handle (col. 4, ll. 30-39; Fig. 1), which would also interfere with folding over the end of the container to create a double stacked handle. The Krings container also includes a spout 8 welded in between the two walls of the container for filling and emptying the container. Col. 4, ll. 60-65. The spout or nozzle is meant to fill or empty fuel into or out of the container. It would not have been obvious to modify the Krings bag with a folded double stacked handle or a tear seam, as the folding and seal of the container end would have been obstructed by the pipe 7. Also, adding a tear seam to Krings would have disrupted the functionality of the spout or nozzle used to fill or empty the fuel container and would have been difficult to implement in the thicker material and where the pipe 7 is present. Thus, Applicant submits that the claims would not have been obvious over the cited art and respectfully request that this rejection be reconsidered and withdrawn.

Regarding claims 8-10, 24, 25, 29, 32 and 48-50, Applicant submits that it would not have been a matter of obvious design choice to include the claimed contents of the multihandled bag in a Krings container, as modified by Dollheimer. The Krings container is meant for carrying fuel. The Krings container includes a spout or nozzle for pouring such fuel, and contrary to the Office Action's statement, it does not appear that the Krings container would perform equally well with the claimed contents. Such contents, e.g., salt, fertilizer, cement, etc. would pose an increased risk of clogging the spout or nozzle, making it difficult to either fill or empty such contents via the spout or nozzle.

Applicant also submits that several of the dependent claims rejected by the outstanding Office Action include additional novel features, or features similar to or cumulative with those shown above to be allowable. Thus, many of the dependent claims not specifically addressed herein are believed to be separately allowable over the cited references.

In view of the foregoing, it is submitted that the claims are in condition for allowance. A Notice of Allowance is requested.

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